

Exhibit A

The Honorable Al Franken
United States Senate
Washington, DC 20510

Dear Senator Franken:

Thank you for your August 24, 2017 letter. Acting Secretary Duke asked that I respond on her behalf.

For specific responses to each of your questions, please refer to the enclosure. To address your specific concern related to U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) utilizing cell-site simulators, I can confirm that ICE/ERO does not use cell-site simulators for the purpose of civil immigration law enforcement. While ICE/ERO's primary mission is to enforce the Nation's civil immigration laws, individual ERO officers may participate in Joint Task Forces with federal, state, and local law enforcement partners, in furtherance of our shared public safety mission. Such a Joint Task Force may employ various technologies, including cell-site simulator technology, to pursue individuals suspected of engaging in criminal activity. However, such use must be conducted in a manner that protects rights afforded by the U.S. Constitution, and in compliance with applicable statutory authorities.

While cell-site simulators are used by several Components of the U.S. Department of Homeland Security (DHS), no Component is using this technology for the purpose of civil immigration enforcement. ICE Homeland Security Investigations (HSI) uses cell-site simulators in support of criminal investigations requiring judicial process, and not for administrative violations under the Immigration and Nationality Act. ICE/HSI's use of cell-site simulator technology in the context of criminal investigations may result in undocumented immigrants being arrested when they are the targets of said criminal investigations.

U.S. Customs and Border Protection (CBP) currently makes limited use of cell-site simulators. CBP's Office of Professional Responsibility (OPR) has used this technology in support of ongoing criminal investigations related to employee integrity and workforce security.

The United States Secret Service (USSS) also uses cell-site simulators to locate hard to find special interest subjects by locating targeted mobile devices. In appropriate cases, USSS uses this technology to assist Federal and state, local, tribal, and territorial criminal investigations by locating targeted mobile devices associated with suspects wanted for very serious felonies and violent crimes.

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The DHS Components that use cell-site simulators do so in a manner that is consistent with DHS Policy Directive 047-02, *Department Policy Regarding the Use of Cell-Site Simulator Technology*, dated October 19, 2015, which closely aligns with the U.S. Department of Justice's policy guidance regarding the use of cell-site simulator technology. Under current policy, operators must obtain a search warrant supported by probable cause and issued pursuant to Rule 41 of the Federal Rules of Criminal Procedure (or applicable state equivalent).

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DHS remains committed to ensuring law enforcement practices concerning the collection or retention of data are lawful and respect the important privacy interests of individuals.

Thank you again for your letter and interest in this important matter. The co-signers of your letter will receive separate, identical responses.

Sincerely,

James D. Nealon
Assistant Secretary for International Affairs
Office of Strategy, Policy, and Plans

Enclosure